Remarks/Arguments

Applicants have carefully considered the Office Action of August, 5, 2008. Claims 49-53 and 55-65 are pending and had been rejected. Favorable reconsideration in light of the above amendments and the following remarks is respectfully requested.

Amendments to the Specification

A paragraph has been added to the specification in which terms found in the presently pending claims are introduced into the specification. Support for this amendment may be found in figure 1A of the drawings as originally filed. Because the new paragraphs merely provide additional description of an originally disclosed device and do not introduce any new features, no new matter had been introduced. As stated in MPEP 2136.06, "information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter."

Further, new paragraphs have been added to update the description of the drawings section in light of the additional drawings. Again, no new matter has been introduced.

Amendments to the Drawings

With this response, new figures 4 and 5 are introduced. These figures are magnified views of the distal end of the embodiment of figure 1A. As such, applicants believe no new matter is being introduced. Figure 4 and 5 are beneficial in understanding the terminology of the pending claims because the scale of figure 1A does not easily accommodate the pertinent reference numerals.

Claim Rejections

Claims 49-53 and 55-65 were rejected under 35 USC 102 as being anticipated by Dubrul et al., US Pub No 2002/0019597. Applicants respectfully traverse the rejection.

As an initial matter, it does not appear that all the elements of the claims were considered when formulating this rejection. For example, none of the elements objected

to as new matter were discussed in this rejection. This appears to be contrary to office policy which provides that " If new matter is added to the claims, or affects the claims...the new matter must be considered as part of the claimed subject matter and cannot be ignored." See MPEP 706.03(o).

The following paragraphs help to further explain the terms in the currently pending claims and in the new paragraph which introduces these terms into the specification in light of Figures 1A and new Figures 4 and 5. The features described by these terms can, of course, be found in Figure 1A as originally filed.

Distal device 304 includes an elongate member 314 that has a proximal end and a distal end and a center line extending therebetween that follows the path of the elongate member. The centerline is not a physical feature of the device but rather a geometrical construct used to more particularly described the geometry of the device. In the case of figure 1A, the centerline, because it follows the path of the elongate member, extends generally straight and includes an arcuate section at the distal end. A centerline of the elongate member of figure 1C, for example, would have a generally straight section as well as a zigzag section at its distal and to correspond with the path of that elongate member at that region. It is also contemplated that the centerline is centered within the elongate member.

The elongate member can be divided into a proximal region 320 an intermediate region 322 and a distal region 324 as illustrated in figure 4, which is an expanded view of the distal portion of figure 1A. It can be seen from figure 1A and from figure 4 that the intermediate region 322 has a generally uniform width along its length. The elongate member includes distal tip 328 and the embolectomy device includes a region 326 proximate the distal tip of the elongate member. Distal tip 328 is the distalmost portion of the elongate member following the centerline. In the particular configurations shown, distal tip 328 is not at the extreme distal end of the embolectomy device when one follows a generally straight longitudinal axis of the catheter 302, for example. Proximate region 326 has a maximum width, with respect to the longitudinal axis of the catheter, that is greater than the width of the intermediate region 322. A line 340, parallel to about offset from the longitudinal axis of the catheter, has been included in figure 4 for illustrative purposes. Because the distal tip 328 is of the elongate member rather than of

the embolectomy device, proximate region 326 has a width that is greater than the width of the distal tip of the elongate member and, as seen in the figure, at least twice that of the distal tip. Distal region 324, as seen in figure 1A, as a maximum width that is less than half the diameter of the body lumen in which it is disposed. Proximate region 326 has, with respect to the longitudinal axis of the catheter lumen, a curved profile.

Proximate region 326 can be divided into a first section 332 and a second section 330. These are illustrated in figure 5, which is a diagrammatic side view of the distal portion of section 324 of the elongate member of figure 1A. First section 332 and the second section 330 are divided along a plane perpendicular to the longitudinal axis of the lumen of the catheter. This plane is positioned along the inside curve of the proximate region. The line of the plane is illustrated at 342. At this position, for any elongate member having a uniform profile along the centerline as discussed above, a maximum thickness of material is intersected by the plane. As a plane is moved proximately from that position, it can be seen that the thickness intersected by that plane lessens and approaches twice the thickness of the elongate member, until distal end 328 is reached. Likewise, as a plane is moved distally from that position, it can be seen at the thickness rapidly reduces to a point at the distalmost end of the embolectomy device. The first section 332 of the proximate region 326, therefore, has a first end at this plane where there is a maximum thickness of material perpendicular to the longitudinal axis and a second end that abuts the distal tip 328. The second section 330 of the first end that abuts the first end of the first section at the plane indicated at 342 and a second end having a width equal to that of the intermediate region 322, indicated at 344. It can be seen that there is material distal the second end of the second section 330 and that the first section 332 is longer along the longitudinal axis 340 than the second section 330 and that the first section 332 is at least twice as long as the second section. There is a gradual transition between the first section and the second section.

The geometry of the first section 332 of the proximate region may also be described in the following manner. For every point on the centerline, indicated at 346 in figure 5, in this first section the following relationship holds. For a given point on the centerline, there exists a tangent line, which will be called the first tangent line. There also exists a line that is coplanar with the first tangent line and is tangent to a second

point, where the second point is on the surface of the elongate member and is defined by the intersection of a line perpendicular to the first tangent line and extending through the given point on the centerline with the surface of the elongate member, which will be called the second tangent. This surface of this first section can be to a certain extent described by the relationship of these two lines. It is axiomatic that as the relationship between two lines approaches a parallel configuration that the magnitude of the tangent of the angle between the two lines approaches zero. It can therefore be seen that the magnitude of the tangent of the angle between the first tangent line and the second tangent line is less than 0.84, is less than 0.71, is less than 0.58, is less than 0.47, and is less than 0.37.

When the all the claim limitations are properly considered, it can be seen that that Dubrul does not teach (nor is alleged to teach) the element of independent claims 49 of "wherein the distal region of the wire includes a distal tip having a uniform profile along the center line and a region proximate the distal tip having a maximum width perpendicular to the longitudinal axis of the lumen that is greater than the width of the intermediate region of the wire and wherein the distal tip has a width that is less than that of the proximate region and wherein the intermediate region width is also less than that of the proximate region," applicants thus submit that independent claim 49 is in condition for allowance. As claims 50-53 and 55-65 depend from claim 49 and contain additional elements, applicants submit that these claims are in condition for allowance as well.

In view of the foregoing, all pending claims are believed to be in a condition for allowance. Reexamination and reconsideration are respectfully requested. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Date: Dec. 19, 2009

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